

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #10	CCRB Case #: 202100424	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/13/2021 8:00 AM	Location of Incident: § 87(2)(b)	Precinct: 44	18 Mo. SOL 7/13/2022	EO SOL 7/13/2022	
Date/Time CV Reported Thu, 01/21/2021 8:54 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 01/21/2021 8:54 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Declan Ludington	04794	953018	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Anthony Galasso	1670	940170	WARRSEC
2. DT3 Gary Capellan	00339	950154	WARRSEC
3. POM James Stalikas	18382	959268	WARRSEC
4. DT3 Edelman Santos	00239	949622	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.SGT Declan Ludington	Abuse: Sergeant Declan Ludington damaged § 87(2)(b)'s property.	§ 87(2)(b)
B.SGT Declan Ludington	Abuse: Sergeant Declan Ludington entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
C.SGT Declan Ludington	Abuse: Sergeant Declan Ludington searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
D.SGT Declan Ludington	Abuse: Sergeant Declan Ludington failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

Case Summary

On January 21, 2021, § 87(2)(b) called the CCRB and filed this complaint.

On January 13, 2021, at approximately 8:00 a.m., Detective Anthony Galasso of the Warrant Section went to § 87(2)(b)'s apartment at § 87(2)(b) in the Bronx to execute a parole warrant regarding § 87(2)(b)'s ex-boyfriend, § 87(2)(b). Sergeant Declan Ludington of the Warrant Section authorized the forcible entry and search of § 87(2)(b)'s apartment, which caused damage to § 87(2)(b)'s front door (**Allegation A, Abuse of Authority: Property damaged, § 87(2)(g)**)(**Allegation B, Entry of premises, § 87(2)(g)**)(**Allegation C, Abuse of Authority: Search of premises, § 87(2)(g)**). Sgt. Ludington did not provide § 87(2)(b) with a business card during this incident (**Allegation D, Abuse of Authority: Failure to provide RTKA card, § 87(2)(g)**).

The investigation also interviewed the super of § 87(2)(b) § 87(2)(b) as well as Detective Gary Capellan of the Warrant Section.

No arrests or summonses resulted from this incident.

There was no video evidence regarding this incident. The involved officers were not equipped with body-worn cameras at the time of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Declan Ludington damaged § 87(2)(b)'s property.

Allegation (B) Abuse of Authority: Sergeant Declan Ludington entered § 87(2)(b) in the Bronx.

Allegation (C) Abuse of Authority: Sergeant Declan Ludington searched § 87(2)(b) in the Bronx.

It was undisputed that members of the Bronx Warrant Squad “JAWS Team” forcibly entered and searched § 87(2)(b)'s apartment at § 87(2)(b).

This allegation was pleaded against Sgt. Ludington because he was the supervisor who authorized the forced entry and search of § 87(2)(b).

§ 87(2)(b) (**BR 01**), who was not present during the officers' entry and search of her apartment, said she heard from a neighbor and her super that officers entered and searched her apartment. § 87(2)(b) said that, because of officers' entering her apartment, the top of her front door tilted into the apartment. § 87(2)(b) said that she had not lived with her ex-boyfriend, § 87(2)(b) since November 2020.

§ 87(2)(b) did not send any photos of the alleged damage to the door.

§ 87(2)(b) (**BR 02**), the super of § 87(2)(b) confirmed that officers showed him a warrant for § 87(2)(b). § 87(2)(b) said that he had heard § 87(2)(b) outside § 87(2)(b)'s apartment on January 9, 2021.

Det. Galasso said (**BR 03**) that he went the § 87(2)(b) to execute a parole warrant for § 87(2)(b). With Det. Galasso was Parole Officer Constantinis. Det. Galasso had previously arrested § 87(2)(b) at the location on August 21, 2020. Det. Galasso and Det. Santos first went to the door of § 87(2)(b). They listened for approximately 30-60 seconds before Det. Galasso knocked. Det. Galasso did not announce himself at first. While Det. Galasso and Det. Santos waited at the door (though Det. Galasso could not specify precisely when he heard this), Det. Galasso heard shuffling in the apartment that sounded like footsteps. Det. Galasso announced himself as police. Still no one opened the door. Det. Galasso also called out for § 87(2)(b) and § 87(2)(b) by name. Other than the footsteps, Det. Galasso did not hear any other noises or voices emanate from the apartment. Det. Galasso noted that § 87(2)(b) had a fire escape which led to a rear yard. At the time that he and Det. Santos were at the front door, no one was watching the rear yard to see if anyone had escaped. It is possible that someone escaped via the fire escape during this time. After waiting for several minutes, Det. Galasso began to consult with neighbors. Det. Galasso spoke with the super's teenage son in § 87(2)(b); the son said he had seen § 87(2)(b) in recent days but

could not confirm whether § 87(2)(b) had been in the apartment building on the night of January 12, 2021. The teenage son also noted that he had heard § 87(2)(b) and § 87(2)(b) arguing inside the apartment in recent days but did not know if § 87(2)(b) permanently lived in § 87(2)(b). At first, the super was not present. Det. Galasso also spoke with a woman in § 87(2)(b); she said that she had heard § 87(2)(b) in the apartment recently, heard parties where § 87(2)(b) was present, and occasionally saw § 87(2)(b) in front of the building. This female neighbor also did not know if § 87(2)(b) was permanently staying in the apartment.

After receiving all this information, Det. Galasso called for his supervisor, Sgt. Ludington, as he always did when he believed he needed to make entry. Sgt. Ludington arrived at the scene. Det. Galasso explained the information he had gotten on January 13, 2021 (the neighbors' statements and the shuffling of feet). Det. Galasso also aware that Sgt. Ludington was present during § 87(2)(b) arrest on August 21, 2020 and also knew § 87(2)(b) history. Sgt. Ludington authorized the entry. Det. Galasso retrieved a ram and struck § 87(2)(b) front door once with the ram near the handle and lock. The door opened. Det. Galasso said that there was ostensibly no damage to the door except for perhaps some paint chipping. There was no damage to the door itself and no damage to the locking mechanism. Det. Galasso, Det. Santos, and Sgt. Ludington entered § 87(2)(b) while PO Stalikas stood at the door to ensure that no one could run out of the apartment. The three conducted a search for § 87(2)(b). The three officers searched the bathroom (for example: behind the shower curtain), the bedroom (for example: under the bed), checked all the closets, checked under the couch, pushed the couch cushions, checked behind the TV. Det. Galasso said that officers searched wherever a person could reasonably hide, but also said that officers never searched inside sock drawers and smaller compartments. During this search, Det. Galasso did not believe that anyone other than § 87(2)(b) or § 87(2)(b) were potentially inside the apartment. Det. Galasso did not recover anything from the apartment. Det. Galasso saw male clothing (sneakers, for example), that suggested that § 87(2)(b) stayed in the apartment. Det. Galasso did not confiscate any mail that corroborated that § 87(2)(b) lived in the apartment. In total, the search of § 87(2)(b) elapsed likely over the course of approximately five minutes; Det. Galasso estimated that, at most, the search took place over ten minutes. Det. Galasso and the other officers exited the apartment. Det. Galasso spoke with the super, who confirmed that there was no damage to the door and that the door could lock. Det. Galasso said that, after the conclusion of the search, § 87(2)(b) arrived alone at the apartment. Det. Galasso showed § 87(2)(b) that there was no damage to the door and told § 87(2)(b) that he and the other officers had been inside the apartment.

Per Det. Galasso's DD5s prepared regarding this incident (**BR 04**), § 87(2)(b) listed address as of January 7, 2021 was § 87(2)(b) in Manhattan (§ 87(2)(b)). Per the DD5s, Det. Galasso conferred with § 87(2)(b) parole officer on January 8, 2021. Regarding the entry and search on January 13, 2021, Det. Galasso wrote the following: he heard movement inside the apartment but no voices; Det. Galasso knocked on the door for several minutes; Det. Galasso conferred with other tenants before entering the location; the subsequent search yielded negative results; there was no damage to the door; § 87(2)(b) had inspected it in regard; § 87(2)(b) verified that the door was able to lock.

Sgt. Ludington said (**BR 05**) he did not know specifics of the active parole warrant that regarded § 87(2)(b) on January 13, 2021. Sgt. Ludington also said that he supervised the arrest of § 87(2)(b) on September 15, 2020 at § 87(2)(b). Sgt. Ludington also noted that § 87(2)(b) had two domestic incident reports filed against him on June 1, 2020 and August 20, 2020. Both domestic incident reports listed the victim as § 87(2)(b) listed § 87(2)(b) relationship to § 87(2)(b) as boyfriend, listed that the two lived together at § 87(2)(b) in the Bronx, and listed that § 87(2)(b) could identify § 87(2)(b). Sgt. Ludington further noted that the Police Department had filed two investigation cards regarding § 87(2)(b) as well, both of which listed § 87(2)(b) as § 87(2)(b) permanent address. These investigation cards were filed on December 18, 2020 and December 25, 2020.

Regarding the incident on January 13, 2021, Sgt. Ludington said he received a call from

Det. Galasso, who was at § 87(2)(b) in the Bronx. Det. Galasso told Sgt. Ludington that he heard “movement” inside the apartment, and that he believed that the subject of a parole warrant, § 87(2)(b) was inside the apartment. Sgt. Ludington drove to the location. Sgt. Ludington went up to the landing outside § 87(2)(b) and spoke with Det. Galasso who reiterated that he had heard “movement” inside the apartment. Sgt. Ludington authorized officers to knock open the apartment door with department tools, specifically a department-issued handheld metal ram. Sgt. Ludington authorized entry in order to find the subject of the warrant, § 87(2)(b). Sgt. Ludington did not remember if he or Det. Galasso used the metal ram to pop open the door. Sgt. Ludington’s statements regarding the search and alleged property damage were consistent with that of Det. Galasso.

Det. Capellan said (BR 06) he was in an unmarked van with his prisoner during this incident.

§ 87(2)(b) arrests on August 21, 2020 and September 15, 2020 are corroborated in BADS (BR 07).

The investigation cards that were submitted on December 18, 2020 and December 25, 2020 both listed § 87(2)(b) address as § 87(2)(b) (BR 08-09).

The parole warrant activated on this incident was filed on December 28, 2020 in Bronx County and listed § 87(2)(b) address as § 87(2)(b) in Manhattan (BR 10).

§ 87(2)(g)

Per NYS Criminal Procedure Law § 120.80 (BR 11), a warrant of arrest may be executed on any day of the week and at any hour of the day or night. In order to effect the arrest, the police officer may enter any premises in which he reasonably believed the defendant to be present (unless that premises is the dwelling of a third party who is not the subject of the arrest warrant). Before such entry, the officer must give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof, absent exigent circumstances. If after giving such notice the officer is not admitted, the officer may enter the premises by a breaking if necessary.

Per United States v. Luckey, 701 F. Supp. 2d 464 (BR 12), officers may use the early hour of an arrest warrant execution to support a reasonable belief that their target is at home only when additional specific information links the target to being present at the time of the execution.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Abuse of Authority: Sergeant Declan Ludington failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) said that officers did not leave any information at her apartment and that she only found out that officers had broken into her house from her super and neighbor. § 87(2)(b) said that she returned to her apartment a couple days after officers entered and searched her apartment.

§ 87(2)(b) said that § 87(2)(b) returned to the apartment a couple days after officers entered and searched her apartment.

Sgt. Ludington said that he did not leave a business card at § 87(2)(b)'s apartment. Sgt. Ludington, who said that § 87(2)(b) came to the scene after he and the other officers completed their search, said that he did not provide § 87(2)(b) with a business card. § 87(2)(b) did not ask for a business card. Sgt. Ludington did not know if he was equipped with business cards during this incident.

Det. Galasso said that spoke with § 87(2)(b) at the scene, and that he believed that § 87(2)(b) had confirmed that she still had Det. Galasso's business card from the time that Det. Galasso had last arrested § 87(2)(b). Det. Galasso did not see any other officer provide a business card to § 87(2)(b).

Per Patrol Guide Procedure 203-09 and New York City Administrative Code 14-174 (BR 13-14), members of service are to proactively offer a business card to members of the public after the conclusion of a search of property except in cases where summonses are issued or arrests are made. Additionally, assigned detectives are to proactively officer a business card following initial in-person questioning of victims and/or witnesses to a crime.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (**BR 15**).
- Sgt. Ludington has been a member of service for nine years and has been subject in eight CCRB complaints and 20 allegations, four of which were cited or substantiated.
 - 201310095 involved a substantiated allegation of offensive language on the basis of race. The Board recommended and the NYPD imposed a penalty of instructions.
 - § 87(4-b), § 87(2)(g)
 - 201907212 involved a substantiated allegation for failure to provide a RTKA card and § 87(4-b), § 87(2)(g). The Board recommended and the NYPD imposed a penalty of formalized training for the allegation § 87(4-b), § 87(2)(g).

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of May 25, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (**BR 16**).
- Per the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 17**).

Squad: 10

Investigator: Ethan C. Waterman Inv. Ethan Waterman 05/03/2022
Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 5/5/2022
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date